

Appl. No. 10/691,221
Amdt. dated May 31, 2005
Responsive to Office Action dated November 29, 2004

REMARKS/ARGUMENTS

Claims 1-9 and 11 are pending in the application. Claim 10 is cancelled by this Amendment. Claims 12-15 were previously withdrawn. Reconsideration and reexamination of the application are hereby respectfully requested.

In the Specification:

The abstract is objected to for being in claim format. An amended specification is submitted to place the abstract in narrative form.

In the Drawings:

The drawings are objected to under 37 C.F.R. 1.83(a) for failure to show every feature of the invention specified in the claims. Claim 10 specifies a "solid piston" which is not shown in the drawings. Claim 10 is cancelled by this amendment.

In the Claims:

Claim 1 is amended herein to correct a typographical/spelling error (recess not recess(es)) noted during the preparation of this Amendment.

Claims 1-11 stand rejected under 35 U.S.C. 113(a) as unpatentable over US 4,537,264 to Schmid et al in view of US 2,422,327 to Winslow. According to the Examiner, Schmid '264 discloses a hammer piston 24 including at least one rearwardly extending arm (bifurcated end portion 25) and a rearward protrusion (allegedly shown in Fig. 6a), the piston arm and the protrusion defining a recess between the piston arm and the protrusion. Furthermore, the Examiner proposes that it would have been obvious to provide Schmid '264 with a washer (bushing 5) in a recess and around a trunnion pin (cross bolt 8), which the Examiner purports to find in Winslow '327.

The Applicant respectfully traverses the rejections of claims 1-9 and 11. Claim 10 is cancelled by this amendment.

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The Applicant respectfully replies that he can not find a rearward protrusion in Schmid '264, as the Examiner claims in section 5 of the Action. Claim 1 requires the piston include a rearward protrusion, and that "the piston arm and the protrusion define a recess" between them, and that a washer "is at least partly located within the recess" and that "the recess is shaped so as to support the washer in an assembled condition." None of Schmid '264 Figures 2, 3, or 6 show a rearward protrusion from the piston. Although the Schmid '264 Figures show a solid piston 24 with a bifurcated end portion 25, there is no description or depiction of a protrusion between the bifurcated portions 25, which would define a recess between the protrusion and one or the other of the bifurcated portions 25. Furthermore, since Schmid 264 does not disclose any trunnion washer it would be unnecessary for it to include a protrusion defining a recess "shaped so as to support the [nonexistent] washer in an assembled condition."

The Examiner points specifically to Fig 6a of Schmid '264 as showing a rearward protrusion. Fig. 6a appears to be lateral cross-section of the wobble mechanism and trunnion. Whether it shows a front or rear view is not clear, but regardless it shows pin 21 occupying the space between the bifurcated end portions 25 of piston 24. There is no rearward protrusion of the piston proper 24 into the space between the end portions 25 visible in Fig. 6a. See annotated copy of Fig. 6 of Schmid '264 in Attachment A hereto.

Thus, Schmid '264 fails to teach the piston rearward protrusion and shaped recess for a washer as required by Claim 1. Furthermore, Winslow '327 does not make obvious to provide the missing limitations.

Even overlooking the absence of any suggestion to combine elements from Winslow '327 with the hammer of Schmid '264, Winslow still does not teach the limitations missing from Schmid. Winslow '327 discloses a resilient piston pin bushing, not a washer. A bushing is a tube-shaped cylindrical intermediate piece between a cylindrical inner component and the walls of a cylindrical bore. Attachment B definition of "bushing" from Merriam-Webster Online Dictionary. In contrast a

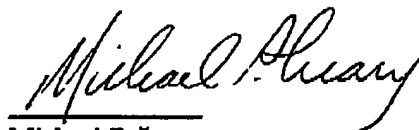
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"washer" is a flat thin ring used in an assembly to relieve friction between other components. Attachment C definition of "washer" from Merriam-Webster Online Dictionary. Applicant's respectfully note that Winslow consistently names the component in his patent a "bushing." "Washer 5," identified by the Examiner, is an integral portion of Winslow's bushing 4 and repeatedly identified as "annular flange(s) 5." Winslow '327 col. 3 line8. Even assuming for sake of argument that annular flange 5 was structurally and functionally equivalent to the claimed washer (which it is not), to make an invalidating combination of Schmid '264 and Winslow '327 would require a motive or suggestion to incorporate not the entire Winslow bushing 5, but only the (otherwise) integral flange portion 5. There is certainly no motive or suggestion to cut up a neoprene bushing (Winslow '327 col. 2 lines 50-55) to create wear washers for a substantially different piston structure in a substantially different tool application/environment.

Since the applicant believes he has traversed the rejection of Claim 1 and has established the novelty of independent Claim 1 over the proposed combination of Schmid '264 and Winslow '327, it is not necessary to separately address the 35 U.S.C. §103(a) rejections of dependent claims 2-9 and 11.

The Applicant wishes to thank the Examiner for the consideration shown to the Application, and believes that the present Amendment and the Remarks herein cure or traverse the rejections raised. Thus, the Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted



Michael P. Leary
Registration No. 41,144
Attorney for Applicant(s)
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The Black & Decker Corporation (TW199)
701 East Joppa Road
Towson, Maryland 21286
Telephone: (410) 716-2773